

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

YITZCHOK SCHWARTZ, on his own behalf
and on behalf of all others similarly situated,

Plaintiff,

-against-

CREDITONE, L.L.C.

Defendant.

3046
TOWNES, J.
REYES, M.J.
CLASS ACTION COMPLAINT
FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
JURY TRIAL DEMANDED
★ JUN 19 2006 ★
BROOKLYN OFFICE

Plaintiff, by and through his undersigned attorneys, alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et. seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors within the meaning of 15 U.S.C. § 1692a(6) from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Yitzchok Schwartz (hereinafter "Schwartz") is a resident of the State of New York, Queens County. On or about May 18, 2006, plaintiff received and came into contact with a form debt collection notice from defendant at plaintiff's home address. Exhibit A.

5. Defendant Creditone, L.L.C. is a Louisiana limited liability company active in New York. Defendant attempts to collect debts alleged to be due another. Defendant is licensed by the City of New York Department of Consumer Affairs, License Number 1117938. Its Registered Agent is the CT Corporation System, 111 Eighth Avenue, Floor 13, New York, New York 10011.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a nationwide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter "FRCP"), on behalf of himself and all consumers who have received debt collection notices and/or letters from the defendant which violate the FDCPA, as indicated in paragraphs numbered 16-20, and their successors in interest (the "Class"). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of Creditone, LLC.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, thousands of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

- a. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692g(a)(4) and 1692g(a)(5).
- b. Whether plaintiff and the Class have been injured by the defendant's conduct;
- c. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

15. Starting on or about May 18, 2006, defendant mailed a collection letter addressed to Yitzchok Schwartz. Upon receipt of defendant's letter, plaintiff opened and read it. The letter demanded payment of a debt allegedly owe by plaintiff to Creditone, L.L.C. A copy of said letter is annexed hereto as Exhibit A.

FIRST CAUSE OF ACTION

16. Each of the above allegations is incorporated herein.

17. The letter violated numerous provisions of the FDCPA by failing to notify the consumer that upon the consumer's notification to the debt collector the debt is disputed, that the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector. 15 U.S.C. § 1692g(a)(4).

18. Defendant failed to provide a statement notifying the consumer that upon the consumer's written request, within the thirty day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the if different from the current creditor. 15 U.S.C. § 1692g(a)(5).

19. Defendant used false representations and deceptive means to collect a debt due to another in violation of 15 U.S.C §§ 1692e and 1692e(10).

20. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Awarding plaintiff statutory damages;
- c) Awarding class members the maximum statutory damages.

d) Awarding plaintiff and the class costs of this action, including reasonable attorneys' fees and expenses; and

e) Awarding plaintiff and the class such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: June 15, 2006
Uniondale, New York



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EXHIBIT A

Credit One L.L.C.

DATE: 05-18-06

FILE # CB189963

YITZCHOCK SCHWARTZ
1027 ROSE ST
FAR ROCKAWAY, NY 11691

|||||

RE: CITIBANK CORPORATE CARD
ORIGINAL ACCOUNT # 5588578003617812

Balance: \$13,816.76

Dear YITZCHOCK SCHWARTZ,

Please be advised that your "DELINQUENT" account has been purchased by CREDITONE, L.L.C.

You have thirty (30) days to make arrangements for payment or further collection efforts will commence along with "NEGATIVE" credit reporting.

You are directed to address all future correspondence and payments concerning this account to this address:

CREDITONE, L.L.C.
P.O. BOX 625
METAIRIE, LA 70004-0625
1-800-663-4745

Sincerely,
Linda Carter
Account Representative

This is an attempt to collect a debt, and any information obtained will be used for that purpose. You have (30) days from the date of this notice to advise us, in writing, if you dispute the validity of this debt.

New York City Department of Consumer Affairs license number 1117938.

PO BOX 625

Metairie LA 70004